

BROOKINGS COUNTY COMMISSION MEETING

Tuesday, February 20, 2007

The Brookings County Board of County Commissioners met in regular session on Tuesday, February 20, 2007 with the following members present: Don Larson, Mary Negstad, Deanna Santema, and Emil Klavetter. Dennis Falken was absent.

CALL TO ORDER

Chairperson Klavetter called the meeting to order.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

CONSENT AGENDA

Chairperson Klavetter declared the Consent Agenda approved with no objection from the board. The Consent Agenda consisted of the agenda for the February 20, 2007 Commission Meeting, and the minutes from the February 13, 2007 Commission Meeting.

Welfare Matters: Case #07-011 for Brookings Utilities was approved; Case #07-013 for Orthopedic Institute was approved; Case #07-010 for Rent was approved; Case #07-007 for Brookings Hospital was denied; Case #06-175 for Avera McKennan was denied; Case #06-163A for Avera McKennan Hospital was denied; Case #07-015 for Rent was denied.

Travel/Education: Mark Anawski to attend Training: Swat Level II on July 16-20, 2007; Stephanie Vogel to attend SDACC Spring Workshop on March 21 & 22.

ROUTINE BUSINESS

Be it noted, the Register of Deeds Statement of Fees Collected for the month of January 2007 in the amount of \$20,461.00 was presented to the board.

Motion by Larson, seconded by Negstad to automatically supplement for unanticipated expenses incurred and reimbursement made to Brookings County to the Emergency Management Department in the amount of \$605.54 for Program Funding 2005 Citizen Corps Grant (line 22600x4295222). Roll Call Vote: Larson "Aye," Negstad "Aye," Santema "Aye," Klavetter "Aye." Motion carried.

Motion by Negstad, seconded by Santema to automatically supplement for unanticipated expenses incurred and reimbursement made to Brookings County to the Commission Department in the amount of \$1,055.89 for SDACC's Reimbursement of Don Larson's NACo Travel Expenses (line 10100x4270111). Roll Call Vote: Negstad "Aye," Santema "Aye," Larson "Aye," Klavetter "Aye." Motion carried.

REGULAR BUSINESS

Motion by Larson, second by Negstad, to approve and authorize Chairperson Klavetter to sign a delinquent tax agreement. Roll Call Vote: Santema "Aye," Larson "Aye," Negstad "Aye," Klavetter "Aye." Motion carried.

Motion by Negstad, second by Larson to approve a late elderly and disabled tax freeze application. Roll Call Vote: Larson "Aye," Negstad "Aye," Santema "Aye," Klavetter "Aye." Motion Carried.

Motion by Larson, seconded by Negstad to approve and authorize Chairperson Klavetter to sign Resolution # 07-08. A Resolution giving preliminary approval to a project with the SDSU Foundation, Inc, and the issuance of economic development revenue bonds to finance such project and permitting reimbursement of certain project costs from bond proceeds. Roll Call Vote: Larson "Aye," Negstad "Aye," Santema "Aye," Klavetter "Aye." Motion Carried.

RESOLUTION NO. 07-08

RESOLUTION GIVING PRELIMINARY APPROVAL TO A PROJECT WITH THE SOUTH DAKOTA STATE UNIVERSITY FOUNDATION, INC. AND THE ISSUANCE OF ECONOMIC DEVELOPMENT REVENUE BONDS TO FINANCE SUCH PROJECT AND PERMITTING REIMBURSEMENT OF CERTAIN PROJECT COSTS FROM BOND PROCEEDS.

WHEREAS, the purpose of Chapter 9-54 of the South Dakota Codified Laws (the "Act") as found and determined by the legislature is to promote the general economic welfare and prosperity of the State of South Dakota (the "State") which includes the power to issue bonds to pay outstanding indebtedness and to pay the costs incurred for the remodeling, enlargement and construction of new facilities of a non-profit corporation organized and existing under the laws of the State of South Dakota; and

WHEREAS, the County has received from South Dakota State University Foundation, Inc., a nonprofit corporation organized and existing under the laws of South Dakota (the "Borrower"), a proposal that the County undertake to finance such a Project (as hereinafter described) through the issuance of up to \$10,000,000.00 in revenue bonds (the "Bonds") pursuant to the Act for use by the Borrower; and

WHEREAS, the County desires to facilitate the development of the County and its environs and help provide the range of postsecondary education and employment opportunities required by its population, and the Project shall assist the County in achieving those objectives; and

WHEREAS, the proceeds from the issuance of the Bonds will be loaned to the Borrower, and used by the Borrower to pay the costs of issuance of the Bonds, and to acquire, remodel, construct, equip and furnish the facilities located in Brookings County as described on Exhibit A hereto (the "Project"); and

WHEREAS, the County has been advised by representatives of the Borrower that at the high cost of borrowing on a conventional basis the economic feasibility of the Project would be significantly reduced, but that with the aid of the proposed financing, the Project is economically more feasible.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF BROOKINGS COUNTY, SOUTH DAKOTA AS FOLLOWS:

1. The Commission hereby gives preliminary approval, subject to final approval by the Commission, to the proposal of the Borrower that the County undertake to issue the proposed Bonds, in the estimated maximum principal amount of \$10,000,000, the proceeds of which will be loaned to the Borrower for the Project. Such Bonds shall be issued pursuant to the Act and shall be subject to the terms and conditions of a loan agreement, tax agreement and such other

agreements related thereto which contain provisions for the pledging of revenues sufficient to pay, when due, the principal of and interest on the proposed Bonds. The Commission further acknowledges that the proposed Bonds shall be limited obligations of the County payable solely out of the revenues and payments to be pledged and assigned with respect thereto, and the proposed Bonds shall not constitute an indebtedness of the County within the meaning of any constitutional provision or statutory limitation and shall not constitute or give rise to a pecuniary liability of the County or its officers, agents or employees, or a charge against the County's general credit or taxing power.

2. On the basis of information available to this Commission, it appears and the Commission hereby finds that the Project will be eligible for financing pursuant to SDCL 9-54-1; that the availability of the financing under the Act and willingness of the County to furnish such financing shall be a substantial inducement to the Borrower to undertake the Project; and that the Project, if undertaken, shall promote the general welfare of the County and State.

3. The adoption of this resolution does not constitute a guarantee or a firm commitment that the County will issue the Bonds as requested by the Borrower. The County retains the right in its sole discretion to withdraw from participation and, accordingly, not issue the Bonds should the County at any time prior to the issuance thereof determine that it is in the best interest of the County not to issue the Bonds or should the parties to the transaction be unable to reach agreement as to the terms and conditions of any of the documents required for the transaction.

4. Nothing in this resolution or in the documents prepared pursuant hereto shall authorize the expenditure of any County funds on the Project other than the revenues derived from the Project or otherwise granted to the County for this purpose. The holder or holders from time to time of the Bonds shall never have the right to compel any exercise of the taxing power of the County to pay the outstanding principal on the Bonds or the interest thereon or to enforce payment thereof against any property of the County. The proposed Bonds shall recite in substance that such Bonds, including interest thereon, are payable solely from the revenue and proceeds pledged to the payment thereof.

5. In anticipation of the final approval of the Project and the issuance of the Bonds to finance all or a portion of the Project and in order that completion of the Project shall not be unduly delayed when approved, the Borrower may make such expenditures and advances toward payment of that portion of the costs of the Project to be financed from the proceeds of the Bonds as the Borrower considers necessary, including the use of interim, short-term financing, to be reimbursed from the proceeds of the Bonds if and when delivered, but the County shall in no event be liable for payment of, or in any respect with regard to, any such expenditures whether or not the Bonds are issued or whether or not the County gives final approval to the issuance of Bonds, except such costs may be paid from Bond proceeds if and when the Bonds are issued. These resolutions constitute the official intent of the County, within the meaning of Section 1.150-2 of the Treasury Regulations, that the County reasonably expects to reimburse the Borrower for the expenditures made for costs of the Project from the proceeds of the Bonds.

6. The County reasonably anticipates that the amount of the tax exempt obligations which will be issued by the County and all entities subordinate to, or treated as one issuer with, the County during calendar year 2007 will not exceed \$10,000,000 and will designate the Bonds as "qualified tax exempt obligations" under Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

7. It is further found and determined that Brookings County, South Dakota, has all of the necessary powers granted to a municipality under and pursuant to SDCL 9-54-10.

8. In the event that the Borrower determines that it is advisable to enter into an interest rate swap agreement with respect to the Project and the financing provided by the Bonds with respect thereto, the County shall be informed of the terms of such swap agreement and shall have the authority to enter into such swap agreement, provided that the Borrower indemnifies and holds the County harmless with respect thereto, and that the County shall not be liable in any event with respect to such swap for payment, except from any revenues received by the County with respect to the Project, and in the event such swap agreement is entered into, the County shall, consistent with the provisions of Section 1.148-4(h) of the Treasury Regulations, identify such swap agreement on its books and records no later than 3 days after the execution of any such swap agreement.

9. The County shall conduct a public hearing with respect to the issuance of the Bonds, in accordance with the Section 147(f) of the Internal Revenue Code of 1986, as amended, on March 13, 2007 at 8:30 a.m., and the County

Auditor is directed to publish a notice of such public hearing and to provide such additional information as members of the public may request with respect to the Bonds and the hearing.

Dated at Brookings, South Dakota this 20th day of February, 2007.

Chairman

ATTEST:

County Auditor
[SEAL]

Exhibit A

Projects financed by the South Dakota State University Foundation , whose primary office is located at 815 Medary Avenue in the City of Brookings, Brookings County, South Dakota including the construction of buildings, the purchase of improvements, including equipment, furniture, fixtures or other personal property therefore including the following, all upon or appurtenant to the campus of South Dakota State University, Brookings, South Dakota and all located within the confines of Brookings County, South Dakota:

1. Equestrian Arena: Construction and equipping of a clear span steel building of approximately 45,000 sq. feet to include practice and exercise areas, animal care, feeding and veterinarian areas for use by SDSU intercollegiate equestrian teams.
2. Dairy Manufacturing Building: Construction and equipping of steel and masonry building to house instructional, production, and other facilities for the Department of Dairy Science including dairy handling, storage, pasteurization and freezing facilities, testing and production laboratories.
3. Wintrode Success Center: Remodeling and equipping of student support center for tutoring and peer mentorship including office space, study facilities and counseling space.
4. Engineering Building: Construction and equipping of steel and masonry building to house the Electrical Engineering Department of the College of Engineering including classrooms, instructional laboratories and research laboratories.
5. Seed Technology Center: Construction and equipping of steel and masonry building and greenhouse to house seed quality laboratories and other research and instructional laboratories.

Commission Assistant/Human Resources Director, Stephanie Vogel met with the board to discuss correspondence received, personnel matters, request from Brookings Chamber of Commerce, and an update on contingency requests.

Be it noted, the Board approved the following Personnel Action Notices: Voluntary Resignations: Part-time Correctional Officer, Mark Reif, Full-time Correctional Officer, Jennifer Crum; New Hires: Part-time Correctional Officer, Leslie Lauseng, Part-time Deputy Sheriff, Timothy Walburg; Routine Step Increase: General Maintenance Worker, John Molengraaf \$11.87.

Motion by Santema, second by Negstad to approve a Request to Fill Vacancy for the Deputy Director of Equalization. Roll Call Vote: Negstad "Aye," Santema "Aye," Larson "Aye," Klavetter "Aye." Motion carried.

COMMISSIONER'S OPEN DISCUSSION

Commissioner Larson had no report.

Commissioner Negstad had no report.

Commissioner Santema had no report.

Commissioner Klavetter reported on an Emergency Management meeting.

Be it noted, the board discussed the space needs proposal and the joint space needs planning meeting scheduled for February 27, 2007 at 4:00pm with the Brookings City Council at City Hall.

ADJOURNMENT

There being no further business, Chairperson Klavetter declared the meeting adjourned until 8:30am Tuesday, February 27, 2007.

It is the policy of Brookings County, South Dakota, not to discriminate against the Handicapped in Employment or the Provision of Service. The County of Brookings is responsive to requests for communication aids and the need to provide appropriate access, and will provide alternative formats and accessible locations consistent with the Americans with Disabilities Act.

Kristin Trana
Deputy Director
Brookings County Commission/Human Resources Office